

California Secretary of State

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing date is scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the contact person listed no later than 15 days prior to the close of the written comment period.

Written Public Comment Period: September 30, 2013 through November 15, 2013.

Subject Matter of Proposed Regulations: Outreach Program Plans

Sections Affected: Sections 20000 through 20005 of Title 2, Division 7, Chapter 8 of the California Code of Regulations.

Specific Purpose of each adoption, amendment, or repeal:

Chapter 704 of the Statutes of 1975 established voter registration by mail. Among other provisions, this legislation required the Secretary of State to adopt regulations requiring each county to design and implement programs to identify qualified electors who are not registered to vote, and to register them to vote (current Elections Code section 2105). The regulations adopted in 1976 (California Code of Regulations section 20000, et seq.) require counties to submit voter outreach plans for review by the Secretary of State.

Following the adoption of the required regulations in 1976, 54 counties submitted outreach plans. Some counties continued to submit updated plans, periodically and inconsistently. It appears that at some point in the 1980's Chapter 704 of the Statutes of 1975 may have been interpreted to be a one-time reporting requirement.

Chapter 704 of the Statutes of 1975 also required that the Secretary of State reimburse counties for net costs associated with the implementation of the law. Specifically, the Secretary of State pays to print voter registration cards and pays for the return postage on the cards when the person wishing to register to vote mails the card to the state or their county elections official. (Elections Code sections 2157(a) (8), 2161, 2164(a) (2).)

The proposed changes are to update the regulations in order to clarify what is required to be submitted to the Secretary of State and when it is to be submitted.

The existing regulations were first adopted in 1976 and have not been changed or modified since.

The anticipated benefit is to election officials so they can more easily comply with the currently vague requirements for outreach plans.

Factual Basis/Rationale

As currently written, the affected sections are unclear as to what information should be submitted to the Secretary of State and when it should be submitted. The current regulations have not been changed or modified since their adoption; however, the process of voter registration has changed dramatically since their adoption, including the availability of online voter registration.

Section 20000 - Section 20000 is amended to specify that county elections officials rather than “counties” shall design and implement voter outreach programs.

Section 20001 - Section 20001(a) is being amended to modify the consultation component to make it clear that county elections officials are to include a description of how they consult on an ongoing basis with persons who have experience with and interest in increasing voter registrations.

Section 20001(b) is being amended to modify the publicity component to make it clear that county elections officials must describe in the plan how they are going to publicize the voter registration process and related deadlines to eligible residents.

Section 20001(c) is being amended to establish that the outreach program needs to prioritize certain efforts over others and to require the plan to describe why certain efforts are prioritized over others.

Section 20001(d) is being amended to reword the budget component to make it clear that county elections officials shall detail how money is being spent on personnel, equipment, and materials for each outreach effort.

Section 20001(e) amends the schedule component by removing the requirement that the schedule of critical dates and deadlines for outreach efforts proposed be supported by “contractual and voluntary commitments.” This requirement is being removed because this type of detail is not needed.

Section 20001(f) amends the solicitation of local assistance component to reword the last sentence regarding soliciting offices that “come into frequent contact with unregistered electors who would be least likely to register under county registration practices in effect prior to July 1, 1976.” The solicitation of such

offices is outdated, as the voter registration practices have changed dramatically since 1976.

Current Section 20001(h) is being deleted and moved to section 20002. As it is currently written, subsection (h) relates to controls that must be established for bulk distribution of voter registration affidavits and is not part of the outreach plan.

A new Section 20001(g) is being added to require that each county elections official maintain a link to the Secretary of State's online voter registration application on their county elections office webpage. The online voter registration application was launched in 2012 and has proven to be extremely effective in promoting voter registration.

Section 20002 - Current Section 20002 is being amended to delete the existing language because it is outdated and no longer applicable. 20001(g) is being inserted in its place. Minor non-substantive changes have been made to the language, including changing "card" to "affidavit" to be consistent with the Elections Code. The requirement that a copy of all statements of requests exceeding 2,000 affidavits be provided to the Secretary of State has been changed to 1,000.

Section 20003 - Section 20003 is being amended to clarify when the outreach plans are to be submitted – January 31 preceding a regularly scheduled statewide election. As currently written, there is ambiguity as to when or if a county needs to submit an outreach plan.

Section 20004 - Section 20004 is being deleted in its entirety. The Secretary of State will not be evaluating the outreach plans. Instead, the plans will be readily available as a public record.

Section 20005 - Section 20005 is being amended to remove the existing language, which is no longer the process for reimbursements under Elections Code sections 2130 and 2164.

Election Code Section 2130 requires the Controller to reimburse counties for net costs incurred to implement voter registration activities, specifically the cost of processing voter registration affidavits. Counties submit annually to the Controller information detailing how many voter registration affidavits were returned by mail and received over the counter.

The counties are reimbursed a specific amount per voter registration affidavit. The amount varies by county and is based on the 1992-93 per affidavit cost adjusted for annual changes in the California Consumer Price Index.

This reimbursement process is separate from the reimbursements processed pursuant to Elections Code section 2164(a) and is completed with limited interaction with Secretary of State staff.

For section 2164 reimbursement, currently, counties submit quarterly reimbursement claim forms (sample attached) detailing the number of voter registration affidavits mailed 1) per voter request, 2) per voter outreach activities pursuant to Elections Code section 2105, and 3) per incomplete voter registration affidavits. The county representative must sign the claim form certifying that the “record is accurate to the best of my knowledge and that additional documentation is on file in my office to substantiate these figures.” If a county indicates that they mailed voter registration affidavits pursuant to Section 2105, those reimbursements will be paid.

The updated reimbursement claim form will ask counties to provide information documenting where they sent outreach materials. Secretary of State staff follows up with any county that fails to include the required information with their claim form. However, there is not a review of whether those outreach activities directly link to a county outreach plan.

The language in Section 20005 has been revised to reflect the current process.

Technical, Theoretical, and/or Empirical Study, Reports, or Documents Relied Upon

The Secretary of State did not rely on any technical, theoretical or empirical studies or reports in proposing the amendment and adoption of these regulations.

However, the Economic Impact Analysis/Assessment (EIA) prepared pursuant to Government Code section 11346.3(b) is a document relied upon.

Business Impact

The Secretary of State is unaware of an adverse economic impact on businesses.

The proposed changes are to update the regulations in order to clarify what is required to be submitted to the Secretary of State by county election officials and when it is to be submitted. The existing regulations were first adopted in 1976 and have not been changed or modified since. The anticipated benefit is to election officials so they can more easily comply with the currently vague requirements for outreach plans.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific. The Secretary of State considered leaving the regulations as they are currently written. However, doing so would perpetuate confusion by those affected.